IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21156 of 2004

Between:

Edupulapati Yelleswara Rao, S/o Kotaiah, Hindu,
Mandadam Gram Panchayat, Guntur District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep. by its Secretary, Panchayat Raj Department,
Secretariat, Hyderabad.
2 The District Collector, Panchayat Wing, Guntur (FAC), Guntur District.
3 The District Panchayat Officer, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus declaring the impugned proceedings of the 2nd Respondent Roc.No. 4614/2002-G6, dated 2-11-2004 whereby suspending the petitioner as Sarpanch cannot be enforceable pending disposal of the revision petition filed before the1st respondent on 10-11-2004 as the same is illegal, arbitrary and unconstitutional and consequently direct the 1st respondent to dispose of the revision petition with stay petition by allowing the petitioner permitting him to function as Sarpanch of the Mandadam Gram Panchayat.

Counsel for the Petitioner: MR.J.U.M.V.PRASAD

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

The petitioner, who is the Sarpanch of Mandadam Gram Panchayat, Guntur District, challenges the proceedings of the 2nd respondent dated 2-11-204 whereby the petitioner was kept under suspension for a period of three months from the date of the proceedings.

The petitioner is facing allegations in connection with laying of a C.C. road in the village, that he misrepresented the length of the road from Church to Elementary School as 194 meters, whereas the actual length of the road is 131 meters and misappropriated funds of the Gram Panchayat. A Writ Petition No.20646 of 2003 has also been filed in this regard by one Bethapudi Ankamma wherein this Court by order dated 21-4-2004 directed the District Collector to enquiry into the matter and take a decision within three months. In those circumstances, the 2nd respondent passed the impugned order suspending the petitioner for a period of three months, pending further order in the enquiry pending against him. He passed the said order after calling reports from the Superintending Engineer, Panchayat Raj, Guntur and the Divisional Panchayat Officer, Guntur with regard to the allegations against the petitioner and having come to a prima facie opinion that the petitioner has misused his powers and misappropriated the public funds to a tune of Rs.69,764/-.

As can be seen from the impugned proceedings, the said order is passed in pursuance of the directions of this Court dated 21-4-2004 in W.P.No.20646 of 2003, after considering the reports of the concerned authorities and having not been satisfied with the explanation of the petitioner to the show cause notice and the main enquiry against the petitioner is still pending before the 2nd respondent.

In the circumstances, I see no reason to interfere with the order impugned, inasmuch as the said order is not a final order and the main proceedings against the petitioner are still pending before the 2nd respondent.

The writ petition is accordingly dismissed. No costs.

23-11-2004

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To:

1. The Secretary, Panchayat Raj Department,
   A.P. Secretariat, Hyderabad.
2 The District Collector, Panchayat Wing, Guntur (FAC), Guntur District.
3 The District Panchayat Officer, Guntur District.

4. Two C.Cs. to the G.P. for Panchayat Raj and Rural Development, High Curt of A.P. (OUT)

5 Two C.D. copies